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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XD601

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2014 Commercial Accountability Measure and Closure for Atlantic Migratory Group Cobia

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial Atlantic migratory group cobia in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for Atlantic migratory group cobia, as estimated by the Science Research Director (SRD), are projected to reach the commercial annual catch limit (ACL) on December 11, 2014. Therefore, NMFS closes the commercial sector for Atlantic migratory group cobia on December 11, 2014, and it will remain closed throughout the remainder of the fishing year, through December 31, 2014. This closure is necessary to protect the resource of Atlantic migratory group cobia.

DATES: This rule is effective 12:01 a.m., local time, December 11,

2014, until 12:01 a.m., local time, January 1, 2015.

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Separate migratory groups of cobia were established in Amendment 18 to the FMP. The southern boundary for Atlantic migratory group cobia occurs at the division between Gulf of Mexico and Atlantic migratory groups, which is set at the intercouncil jurisdictional boundary, off the Florida Keys. As specified in 50 CFR 600.105(c), the South Atlantic and Gulf of Mexico intercouncil boundary coincides with the line of demarcation between the Atlantic Ocean and the Gulf of Mexico, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson-Stevens Act, and 83°00' W. longitude, proceeds northward along that meridian to 24°35' N. latitude, (near the Dry Tortugas Islands), then eastward along that parallel, through Rebecca Shoal and the Quicksand Shoal, to the

Marquesas Keys, and then through the Florida Keys to the mainland at the eastern end of Florida Bay, the line so running that the narrow waters within the Dry Tortugas Islands, the Marquesas Keys and the Florida Keys, and between the Florida Keys and the mainland, are within the Gulf of Mexico. The northern boundary for Atlantic migratory group cobia is at the jurisdictional boundary between the Mid-Atlantic and New England Councils. As specified in 50 CFR 600.105(a), the northern boundary begins at the intersection point of Connecticut, Rhode Island, and New York at 41°18'16.249" N. latitude and 71°54'28.477" W. longitude and proceeds south along 37°22'32.75" E. longitude to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

The commercial ACL or commercial quota (quota) for Atlantic migratory group cobia is 125,712 lb (57,022 kg), round weight, for the current fishing year, January 1 through December 31, 2014, as specified in 50 CFR 622.384(d)(2).

The AMs specified at 50 CFR 622.388(f)(1)(i) require NMFS to close the commercial sector for Atlantic migratory group cobia when its quota is reached or is projected to be reached, by filing a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. NMFS has determined that the quota for Atlantic migratory group cobia will have been reached by December 11, 2014. Accordingly, the commercial

sector for Atlantic migratory group cobia is closed effective 12:01 a.m., local time, December 11, 2014, until 12:01 a.m., local time, January 1, 2015.

The possession limit for cobia located at 50 CFR 622.383(b), specifies that no person may possess more than two cobia per day in or from the EEZ in the Gulf of Mexico, Mid-Atlantic, or South Atlantic, regardless of the number of trips or duration of a trip. In addition, a person who fishes in the EEZ may not combine this harvest limitation with a harvest limitation applicable to state waters. Atlantic migratory group cobia taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and may not be transferred in the EEZ.

During the closure, the possession limit for cobia remains in effect, however, in accordance with regulations at 50 CFR 622.384(e)(3), the sale or purchase of Atlantic migratory group cobia taken under the possession limit is prohibited. The prohibition on sale and purchase does not apply to the sale or purchase of Atlantic migratory group cobia that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, December 11, 2014, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and

management of Atlantic migratory group cobia and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary and contrary to the public interest because the AMs for Atlantic migratory group cobia established by Amendment 18 to the FMP (76 FR 82058, December 29, 2011), and located at 50 CFR 622.388(f)(1)(i), have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the 2014 fishing year. Additionally, there is a need to immediately implement the closure to prevent further commercial harvest and prevent the ACL from being exceeded, which will protect the cobia resource. Prior notice and opportunity for public comment on this action would be

contrary to the public interest, because those affected by the closure need as much advance notice as NMFS is able to provide.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: November 28, 2014.

Alan D. Risenhoover,
Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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